

GUIDELINES FOR DEALING WITH INFORMAL SETTLERS

The following Guidelines for dealing with informal settlers/squatters are for use by all Government Ministries, Agencies, Statutory Boards and companies.

1.0. AIMS & OBJECTIVES

The fundamental aim of the squatter management guidelines is to provide guidance to the implementing agencies by way of recommended actions to avert future increase of unplanned/illegal developments and to assist in resolving shelter needs among the targeted population.

The major objectives of these guidelines are to:

- prevent squatting through monitoring and evicting;
- legalize and regularize where possible the property rights of occupants in situations of insecure tenure;
- prevent unplanned and unauthorized developments especially those that are detrimental to human health, the environment and the community;
- promote planned developments through relocation and/or regularization by coordinating activities with other Ministries, agencies and communities and programmes such as Operation Pride.

2.0. POLICY GUIDELINES

2.1. Prevention

i. Monitoring:

All owners of government lands are to develop and maintain effective monitoring and enforcement mechanisms. These properties are to be monitored on a continual basis to ensure that no squatting takes place. Priority areas such as beaches, coastal areas, environmentally sensitive

areas, road and rail reserves as well as reservations for irrigation canals must be given special attention. Any infringement on the properties are to be noted and action taken to prevent occupation. The Jamaica Constabulary Force (JCF) will be mandated and trained to deal with complaints pertaining to squatting and to assist in the monitoring of Crown Lands.

At the first indication that capturing or squatting on land is being contemplated, steps should be taken by the respective land owner to destroy immediately any structures including foundations/fences etc. being erected. The JCF must be deployed to ensure that law and order is maintained.

ii. Law Enforcement:

Preventing any further squatting is critical to addressing the issue. The Government must state in clear and unequivocal terms that:

- squatting will not be condoned and must cease with immediate effect;
- existing laws which are being violated will be enforced with immediate effect; and where strengthening of legislation is required, the necessary amendments will be made;
- illegal buildings and structures in areas subject to development orders will be demolished (pursuant to the Town and Country Planning Act).

The Trespass Act empowers the owner/agent of property to remove the squatter upon their occupation (under a year). The Act also empowers Justices of the Peace (J.Ps.) to issue warrants for trespassers to appear before a Resident Magistrate. The owner/agent can apprehend the trespasser and take him to a J.P. for the purpose of issuing a warrant to bring him before the court. The judicature (Resident Magistrates) Act makes provision for civil proceedings against persons in illegal occupation of land. The owner would have to lodge a plaint with the court for recovery of the land and then serve same on the squatter.

iii. **Protecting Property Rights**

Police Officers are to be educated and trained to assist land owners in protecting their property. It is envisioned that a system similar to Crime Stop with a hotline number be established. This will enable the general public to report the first sign of squatting they see to the Police or Local Planning Authorities (Parish Councils or KSAC) to act. It is critical that the Local Authorities be educated and equipped to respond in a timely manner.

iv. **Stop Orders by Parish Councils and KSAC**

Landowners can bring to the attention of the Local Planning Authorities the fact that persons are squatting and undertaking the construction of a house or any other structure for the Authority to issue Stop Orders to stem the illegal activity. Parish Councils/KSAC can on their own volition take the necessary steps to stop an emerging squatter settlement, because such developments are carried out in contravention of the relevant Planning Acts (e.g. the Town and Country Planning Act, the Local Improvements Act, the Natural Resource Conservation Act and acts dealing with construction of buildings.)

2.2. Eviction

Where it has been determined that eviction is to be undertaken, the recommended strategy is as follows:

- i. Persons in occupation for ten years or less will first be given verbal notification to vacate the land or premises.
- ii. Where the occupant fails to respond within 14 days of verbal notice, an official Notice to Quit will be served. These will be adequately and reasonably given to all those persons who will be affected by the eviction process. A period of up to 30 days should be given for persons to remove themselves and their personal belongings. Where possible and practical,

Notices will contain the names and address of the persons to be served. The press may be advised of the issuance of the Notices and the impending demolition with details such as location, time of eviction, Agency responsible (address, contact person etc) in order to remind the squatters and inform the public. If the occupants have planted cash crops on the property, consideration may be given to allow them ample time to reap their products.

2.3. Social Impact Assessment

Where squatters are in occupation for over ten years, the landowner must collect basic socio-economic data (with guidance from the Ministry or Local Authority) on each site/settlement so that the profile of the illegal occupants can be documented and efforts made to regularize or relocate the occupants. The information must be submitted to the Ministry of Land and Environment who will work in collaboration with the Local Authorities to address the problem. Each Parish Council will maintain a local database and are required to assist in the data collection and problem solving activities.

The assessment will include, but not limited to the following actions:

- A) Detailed socio-economic survey
- B) Site investigation/assessment
- C) Development options
- D) If the site is required for other type(s) of developments or is unsuitable for its current use, relocation or resettlement should be pursued and a suitable relocation site identified.

It is expected that government will provide funding for these studies. It is recommended that University/college students be utilized to undertake the studies for which accreditation could be considered.

Government agencies proposing to remove squatters must publicly state the reasons for their removal. These reasons could include:

- the land is required in the public interest or for a public purpose;
- the land is needed for planned development purposes;
- the property is situated in a hazard-prone or environmentally sensitive area for example; on gully banks, flood plains etc. and that disasters can adversely affect the occupants, their structures, as well as cause tremendous damage to the environment;
- halting and/or preventing the wanton destruction of the environment as may be manifested by the indiscriminate felling of trees;
- the inadequate disposal of sewage/waste resulting in the pollution of the water table, especially in areas where active wells are located;
- the pollution of coastal zones including coral reefs and particularly where the areas are used as fishing and/or bathing beaches.

2.4. Relocation

Relocation (voluntary or involuntary), where feasible, will be used as an alternative means of addressing the squatting issue as opposed to eviction. Government is expected to provide land and housing for relocation as these are central to the process.

Consideration ought to be given to temporary accommodation – a holding area until permanent accommodation can be arranged. In addition, consideration must be given to the leasing of government land or houses to the needy (based on certain criteria) where these exist, but timely collection of rent and maintenance of these units must be ensured.

Squatter settlements in the red/zero tolerance zones must be identified and prioritized for relocation. It is important that dialogue be held with persons who will be affected so that they may become adequately aware of the terms of the

relocation and have the opportunity to be a part of the relocation exercise. A clear assessment of the current situation including the number of persons to be relocated and the number of lots needed must be clearly identified and presented in the form of a report. The report should also include the possible development options that may be pursued with a recommendation for the preferred course of action.

The agency undertaking the removal exercise may, if they can afford to do so, offer assistance to affected persons to help with the relocation.

It is recommended that where action is being taken to relocate squatters it could be useful to photograph squatters in front of their respective dwelling structure with the names of all adult persons occupying the lot. The community group should work with Operation Pride/professionals to assist in the preparation of a development plan for the area to which they are being relocated for shelter/accommodation. The plan should give consideration to minimum starter standards for infrastructure and utilities with phased and incremental development in low-income settlements. The low-income settlement policy report is referred for details on implementation. The 'starter-home' project implemented by the Ministry of Housing in the 1970's should be revisited as a possible shelter option.

Sites for relocation must be selected in accordance with Government site selection criteria. All relocation must include the involvement and/or approval of local planning authorities as well as the other approval agencies (such as NEPA, ODPEM, Ministry of Health and National Water Commission). Consultation with the agencies that have responsibility for the development of infrastructure, especially roads, water and sewage and electricity is required.

2.5. Public Awareness

The public should be made aware of the circumstances under which the relocation/eviction of squatters is being carried out.

The Ministry will spearhead a public education programme on squatting. It is strongly suggested that Community forum involving all major stakeholders (landowners, squatters, approval agencies, NGOs etc.) be held either on a regional or parish basis. The programme will speak to the rights and responsibilities of landowners and seek to sensitize squatters and the public at large on the legal ramifications of illegal occupation and the hazards of settlement in unplanned areas. There will be a general appeal to everyone to heighten their awareness of and to assist in the prevention of squatting.

2.6. Involvement of The JCF AND JDF

Where eviction or relocation is being proposed, the matter must be discussed with the JCF and where necessary the Jamaica Defense Force (JDF). The JCF may also be asked to assist with the eviction, removal or relocation of squatters, and if the necessity arises the JDF be deployed to assist the JCF. The JDF could also assist in the construction of "relocation infrastructure" if the Government so desires.

2.7. Timing Of Eviction/Removal/Relocation Of Squatters

All eviction, removal, relocation of squatters is to be carried out in the daytime, between the hours of 8:00 a.m. and 5:00 p.m. The relevant Councilors, Members of Parliament and the Parish Councils/ KSAC must be advised.

2.8. Regularization

The proper planning and development of existing squatter areas into acceptable developments is another option for addressing the squatter problem. This

involves subdividing of the site, legalizing the occupant's tenure and general improvement of infrastructure.

A Squatter Review/Steering Committee will advise on the suitability and availability of a site for regularization.

Where regularization is recommended, the various development options e.g. Pride must be considered. The ASCEND Manuals (Community Development and Empowerment, Legal, Starter Standards and the House Design and Costs Manuals) will guide this process.

Where private property is squatted and the owners are willing to divest, the government may assist by being a facilitator/a mediator between the two parties so that an agreement can be reached to sell the property to the Minister of Housing for the purpose of establishing a planned development.

2.8.1. Land Sale

Where regularization is possible the squatter will be required to pay for the land at current market rates or at negotiated rates with agreed terms of payment. Rental for the property occupied over the past years (for a maximum of five years) will be calculated by the landowner(s) and be added to the selling price of the property. This will ensure equity, enhance the credibility of the system and discourage squatting.

2.8.2. Illegal Sale/lease of Government owned Land

Persons who have captured government land and are illegally renting, leasing or selling portions to others will be identified and prosecuted.

It must be noted that adverse possession of Crown Lands cannot be proved unless there is continuous, uninterrupted possession of the land for 60 years. In

an effort to prevent and mitigate squatting, all owners of property (Government and private individuals) must consistently monitor their property and ensure that appropriate action is taken.

2.9. Establishment of Housing Registry

Persons desirous of obtaining land by purchase or lease from the government must contact the National Land Agency.

The housing needs of the poor and indigent will be addressed through the Ministries responsible for Housing and Social Welfare. Persons who are considered to be indigent or poor and are in need of shelter may also be registered with the PATH / Poor Relief programmes administered by the Ministry of Labour and Social Security. The provision of shelter then becomes the responsibility of the Ministry of Housing. It is recommended that the provision of rental houses for the poor and needy be revisited. There is the need for a consistent Welfare Housing Policy to ensure that the poor and needy are provided for.

3.0. INSTITUTIONAL FRAMEWORK

Squatting is a national problem and management of the problem cannot be left solely to any one ministry or agency. The solution lies in a collaborative approach. Currently, several government agencies are directly involved in squatter management because of the nature of their activities. They include Ministry of Land and Environment, Ministry of Water and Housing, National Housing Development Corporation, National Housing Trust, Urban Development Corporation, National Land Agency, Jamaica Constabulary Force and the Local Authorities. All government agencies with responsibility for land and development are expected to coordinate activities and play a major role in the management of squatting.

3.1. Ministry of Land & Environment

The Ministry of Land and Environment in conjunction with Ministry of Water and Housing shall be the central authority with overall executive responsibility for the implementation of the policy. Its responsibilities include:

- Ensuring administration of the Policy
- Building capacity where necessary to effectively implement the Policy

3.2. Squatter Review/Steering Committee

A Squatter Review/Steering Committee with broad based representation to include government and civil society will be established by the Ministry of Land and Environment. Its major functions will include:

- i) assistance in formulating and coordinating policies, plans and programmes for squatter management;
- ii) determining ownership of squatted lands and the area of land occupied;
- iii) determining suitability of land: whether it is needed for a national project or for protection of the environment – road reservation or conservation;
- iv) deciding/recommending on whether a squatted site can be formalized into a legitimate settlement
- v) recommending where regularization is possible, the best development mode – Operation Pride, use of the ASCEND Manuals etc.
- vi) monitoring implementation of policy
- vii) identifying appropriate organizations and agencies for promoting training, education and public awareness programmes on squatting and resettlement issues;

3.3. National Land Agency

NLA will work in collaboration with the Ministry to identify appropriate sites, obtain market valuations of selected sites and recommend to the Minister for his approval to divest.